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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill's were introduced in Lok Sabha on the 8th October, 1982:—

BILL No. 79 of 1982

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1982.

(2) It shall come into force at once.

Short
title and
commen-
cement.

43 of 1981

2. For section 3 of the Representation of the People Act, 1951, the following section shall be substituted, namely:—

Substitu-
tion of
section 3.

“3. A person shall not be qualified to be chosen as a representative of any State or Union territory in the Council of States unless he is an elector for a Parliamentary constituency.”

Qualifica-
tion for
mem-
bership of
the
Council
of
States.

STATEMENT OF OBJECTS AND REASONS

According to section 3 of the Representation of the People Act, 1951, a person is not qualified to be chosen as a representative of any State or Union territory in the Council of States unless he is an elector for a Parliamentary constituency in that State or territory.

In practice those who seek to contest election to the Council of States from a particular Parliamentary constituency get their permanent address changed so as to meet the requirements of the Act. This is obviously a malpractice and to prevent it an amendment is sought in the Representation of the People Act, 1951, making a citizen from any part of the country qualified to contest election to the Council of States from any State irrespective of his place of residence.

The Bill seeks to achieve this objective.

NEW DELHI;

MADHU DANDAVATE

June 16, 1982.

BILL No. 83 OF 1982.

A Bill to provide for measures to assist rapid expansion of production of oil-seeds and to facilitate a more effective extraction of edible oils and other oils from different seeds both for direct human consumption as well as for the manufacture of vanaspati, soaps and other products.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Oil-seeds and Edible Oils Production Act, 1982.

Short title,
extent
and com-
mence-
ment.

(2) It shall extend to the whole of India.

(3) It shall come into force at once.

2. (1) It shall be unlawful, after the coming into force of this Act, to use cotton seed for directly feeding the cattle or for putting it to use before extraction.

Restric-
tions on
use of
cotton
seed and
penalty
for viola-
tion.

(2) Violation of the provisions of sub-section (1) shall be punishable with imprisonment for one month or with fine extending to rupees two hundred or with both.

Factories to keep record of cotton ginned.

3. All cotton ginning factories shall keep a record of cotton ginned by them and they shall make all the cotton seed available for solvent extraction.

Subsidy to ginning factories.

4. The Central Ministry of Agriculture shall pay a subsidy, as may be prescribed, to all ginning factories who deliver to the extraction plants hundred per cent of the cotton seed collected by them after completing the ginning process.

Ban on export of certain types of cotton seed cake.

5. (1) Export of undecorticated and undelinted cotton seed cake shall be totally banned after three years from the date of the coming into force of this Act.

(2) During the intervening period of three years referred to in sub-section (1), the Government shall pay cash incentives, as may be prescribed, with a view to encouraging the change-over from undecorticated and undelinted cotton seed cake to decorticated and delinted cotton seed cake.

Rice mills to change hullers into sheller and loan therefor.

6. (1) All the rice mills which make use of hullers for polishing rice at present shall convert their hullers into shellers within a period of three years from the date of the coming into force of this Act.

(2) All rice mills shall be entitled to receive loans from the nationalised banks for the purpose of converting their hullers into shellers.

Abolition of levy on shellers.

7. The existing discriminatory foodgrains levy on modern rice mills using shellers shall be abolished forthwith.

Penal levy on hullers.

8. After the expiry of the period of three years referred to in sub-section (1) of section 6, if any rice mill continues to use hullers for de-husking rice, a heavy levy shall be imposed on it for its continuing to use the old wasteful process.

Licensing of adequate capacity for production of shellers.

9. It shall be the duty of the Central Government to license adequate capacity and ensure adequate production of machinery for effecting change-over from huller to sheller as also for expanding the capacity of extraction industry.

All rice bran to be supplied for solvent extraction and penalty for violation.

10. (1) All the rice bran, the availability of which shall increase with the progressive change-over from the huller process to sheller process of dehusking rice, shall be made available for solvent extraction,

(2) It shall be unlawful, after the coming into force of this Act, to use rice bran for any purpose other than extraction of oil.

(3) Violation of the provisions of sub-section (2) shall be punishable with imprisonment for one month or with fine which may extend to rupees two hundred or with both.

Subsidy to rice mills.

11. The Central Ministry of Agriculture shall pay a subsidy to all rice mills who deliver to the extraction plants hundred per cent of the rice bran collected by them after completing the dehusking process.

12. The Government shall undertake cultivation of palm trees on an emergency basis in the coastal areas, especially in the Union Territory of Andaman and Nicobar Islands and in Kerala and for that purpose a special wing shall be set up in the Central Ministry of Agriculture for helping the Administration in the Union territory of Andaman and Nicobar Islands and the State Governments in Kerala and other States for expanding palm cultivation.

Palm cultivation by Government.

13. A special cell shall be established in the Central Ministry of Agriculture for the purpose of rapidly expanding cultivation of sunflower, especially in tracts which consist of sandy loams and black loams and which are unsuitable for groundnut cultivation and other crops.

Special cell for expanding cultivation of sunflower.

14. The Agricultural Universities shall undertake research in the matter of palm and sunflower cultivation and for that purpose the Central Ministry of Agriculture and State Agricultural Departments shall pay special grants to the Agricultural Universities.

Research on palm and sunflower cultivation.

15. The Central Government shall, in order to expand cultivation of sunflower and palm, establish a special fund for this purpose out of which special development grants shall be given to the States which exceed the targets of cultivation and production to be fixed by the Centre both for palm and sunflower cultivation.

Establishment of special fund for sunflower and palm cultivation.

16. (1) The Central Ministry of Agriculture, in co-operation with the Agricultural Ministries in the States and the Agricultural Departments in the Union territories, shall formulate and implement a scheme for the collection of minor oilseeds like neem seeds, sal seeds, Kusumba and Karanja seeds and other seeds which are at present going waste and the scheme so formulated shall, inter alia provide for drafting of beggars and unemployed people for this purpose.

Scheme for collection of minor oilseeds and payment of development grants.

(2) The Central Ministry of Agriculture shall fix targets for collection of these seeds and States which exceed targets shall be paid special development grants.

17. It shall be the duty of the Central Government and the State Governments to take suitable measures to conserve the nation's resources of edible oil and other oils and for that purpose factories producing vanaspati, soaps and other products shall be required increasingly to shift from the use of groundnut oil, rapeseed oil and mustard oil and other edible oils in general use to other oils and such change-over shall be completed within a period of five years from the date of the coming into force of this Act.

Conservation of and change-over from edible oils to other oils.

18. It shall be the duty of the Central Government to help the soap manufacturers increasingly to shift from the use of oils to the use of chemical detergents in the manufacture of soaps.

Shift from use of oil to detergents in soaps manufacture.

Licensing
of new
units for
detergents
manufacture.

Power to
make
rules.

19. The Central Government shall take steps rapidly to expand the manufacture of chemical detergents by liberally licensing new units so that detergents manufacturing capacity is not monopolised by foreign multi-national corporations and Indian big business houses as defined by the Monopolies and Restrictive Trade Practices Act, 1969.

54 of 1969.

20. (1) The Central Government shall make rules to give effect to the provisions of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Bill provides a short-term and long-term framework for solving the country's acute edible oil and oilseeds problems.

The importance of oil and oilseeds in our national economy cannot be exaggerated. Oilseeds are 13 per cent of the index of wholesale prices, next only to foodgrains.

In the past few years, there has been a shortage of oilseeds, edible oils, Vanaspati and now of soaps, and this shortage is annually growing more acute.

The Five Year Plans for the development of agriculture have not accorded the oilseeds problem the attention it deserved. On the production front, the record has been dismal. Unless drastic legal, administrative, research and investment efforts are undertaken, including as well balanced system of compulsion and inducement, the shortages are likely to get aggravated. Since the prices are increasing very rapidly, they will soon rule so high that edible oil will be beyond the reach of all except the rich.

The scheme of the Bill is to encourage economical use of oilseeds and edible oil, and to assist in the rapid expansion of oilseeds cultivation as well as extraction industry.

With this end in view, the Bill lays down that cotton seed and rice bran shall not be fed to cattle direct but must be delivered to extraction industry for taking out oil and other by-products. A change-over from undecorticated and undelinted cotton seed cake to decorticated and delinted cake and also from huller to sheller process in dehusking of rice is statutorily provided for. All violations of the law shall be punished under the Bill.

The Bill makes it compulsory for the Vanaspati industry to change from use of edible to non-edible oils and soap industry from oils to chemical detergents within a short period.

The Bill also provides the framework for rapid expansion of palm and sunflower cultivation.

NEW DELHI;
June 16, 1982.

MADHU DANDAVATE

FINANCIAL MEMORANDUM

The Bill provides for subsidies, cash incentives, grants and development grants in order to achieve the purposes thereof (clauses 4, 5, 11, 12, 13, 14, 15 and 16).

The estimated recurring expenditure from the Consolidated Fund of India will be around Rs. 25 crores, and this will progressively fall after the transitional period.

The Bill, if enacted, is not likely to involve any non-recurring expenditure.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 20 of the Bill gives the Central Government power to make rules to carry out the purposes of the Bill.

The delegation of legislative power is of a normal character.

BILL No. 119 OF 1982

A Bill to amend the Contract Labour (Regulation and Abolition) Act, 1970.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Contract Labour (Regulation and Abolition) Amendment Act, 1982.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 1 of the Contract Labour (Regulation and Amendment) Act, 1970 (hereinafter referred to as the principal Act),—

Amendment of section 1.

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) It applies—

(a) to every establishment in which five or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employs or who employed on any day of the preceding twelve months five or more workmen on one or more site/s taken together.”;

(ii) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) It shall apply also to establishments in which work of an intermittent or casual nature is performed.”.

Amend-
ment of
section
2.

3. In section 2 of the principal Act, in sub-section (1),—

(i) for clause (c), the following clause shall be substituted, namely:—

‘(c) “contractor”, in relation to an establishment, means a person who undertakes to produce a given result for the establishment, or who supplies contract labour for any work of the establishment and includes a sub-contractor;’;

(ii) in clause (i),—

(a) in sub-clause (B), for the words “five hundred rupees”, the words “two thousand rupees” shall be substituted;

(b) sub-clause (C) shall be omitted.

Amend-
ment of
section
3.

4. In section 3 of the principal Act, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

“(c) such number of members, not exceeding twenty-one but not less than fifteen, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the engineering industry, the contractors, the workmen (two each from all Central Trade Union Organisations having national representative character) and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board.”.

Amend-
ment of
section
4.

5. In section 4 of the principal Act, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

“(c) such number of members, not exceeding twenty-one but not less than thirteen, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen (two each from all Central Trade Union Organisations and two from the Co-ordination Committee of workmen of construction and erection engineering industry in the eastern region) and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.”.

Amend-
ment of
section
7.

6. In section 7 of the principal Act, the proviso to sub-section (1) shall be omitted.

7. In section 8 of the principal Act, after the words "principal employer", the words "as well as the workmen" shall be inserted.

Amend-
ment of
section
8.

8. In section 10 of the principal Act,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
10.

"(1) Notwithstanding anything contained in this Act, the appropriate Government shall, on the recommendations of the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(1A) Notwithstanding anything contained in this Act, the appropriate Government may, *suo moto*, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment in public interest.;"

(ii) in sub-section (2), for the word and figure "sub-section (1)", the word and figure "sub-section (1A)" shall be substituted.

9. In section 12 of the principal Act,—

Amend-
ment of
section
12.

(i) in sub-section (1), after the word "appoint", the words "but not exceeding three months after this Act comes into force," shall be inserted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No contractor shall, except with express sanction of the principal employer, appoint another licensed contractor as sub-contractor especially when by appointment of such sub-contractor the workmen under his establishment are rendered idle or retrenched and a sub-contractor where appointed would become a direct contractor under the principal employer.;"

(iii) in sub-section (2),—

(a) for the words "may contain", the words "shall contain" shall be substituted; and

(b) for the words "the appropriate Government may deem fit to impose", the words "already enacted by the appropriate Government and also" shall be substituted.

10. In section 13 of the principal Act, in sub-section (2), after the word "prescribed", the words "by the appropriate Government in consultation with the Advisory Board" shall be inserted.

Amend-
ment of
section
13.

Amend-
ment of
section
14.

11. In section 14 of the principal Act, in sub-section (1), for the words "after giving the holder of the licence an opportunity", the words "after giving the holder of the licence and also the workmen an opportunity" shall be substituted.

Amend-
ment of
section
15.

12. In section 15 of the principal Act, in the proviso to sub-section (1), after the words "thirty days", the words "but in no case after forty-five days" shall be inserted.

Amend-
ment of
section
16.

13. In section 16 of the principal Act,—

(i) in sub-section (1),—

(a) for clause (b), the following clause shall be substituted, namely:—

"(b) wherein work requiring employment of contract labour is likely to continue for such period as may be prescribed, but the period so prescribed shall not be more than three months, and";

(b) in clause (c), for the words "one hundred", the word "ten" shall be substituted;

(ii) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

"(a) the date by which the canteens shall be provided but such date shall be within thirty days of the date of coming into force of the rules in both cases of the existing and new establishment;".

Amend-
ment of
section
17.

14. In section 17 of the principal Act, in sub-section (1), the words "but not exceeding forty-five days after this Act comes into force" shall be inserted in the end.

Amend-
ment of
section
18.

15. In section 18 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

"(d) creches—

(i) in every establishment, coming within the scope of this Act, where more than fifteen women are employed, a room shall be provided for the use of the children (below six years) of such women, and the room so provided shall be of adequate size, well ventilated and lighted, maintained in a clean and sanitary condition and shall be in the charge of a woman trained in the care of children and infants, and

(ii) one such woman shall be provided to look after every ten children.".

Substi-
tution
section
of 19.

16. For section 19 of the principal Act, the following section shall be substituted, namely:—

First
aid
facili-
ties.

19. (1) There shall be provided and maintained by the contractor so as to be readily accessible during all working hours—

(a) a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him;

(b) an ambulance in every establishment, coming within the scope of this Act, where more than hundred workmen inclusive of direct or indirect contract labour are employed, containing the prescribed equipment and in the charge of the prescribed medical and nursing staff.”.

17. After section 19 of the principal Act, the following new section shall be inserted, namely:—

“19A. Every establishment coming within the scope of this Act shall ensure that—

- (a) all dangerous machinery are securely fenced;
- (b) work on or near any machinery in motion is carried out by specially trained adult workmen with proper dresses and/or clothes;
- (c) no young workman below the age of twenty-one years is at work at any dangerous machine unless he has been specially instructed as to the dangers and the precautions to be observed, has received sufficient training about the work, and is under the supervision of some workman having thorough knowledge and experience of the machine;
- (d) all dangerous machinery are sunk, encased or otherwise effectively guarded;
- (e) every hoist or lift is so constructed as to be safe and lifting machines, chains, ropes and lifting tackle also are taken care of;
- (f) all floors, steps, stairs, passages and gangways are of sound construction and properly maintained;
- (g) pits, sumps, openings in floor etc. are securely fenced;
- (h) no workman is made to carry a load of more than fifty-five kilograms for short distance upto one hundred metres and ten kilograms beyond one kilometre;
- (i) effective screen or suitable goggles are provided to protect the eyes of the worker from fragments/spark thrown off in the course of welding, etc.;
- (j) fire escapes are provided.”.

18. In section 20 of the principal Act,—

- (i) in sub-section (1), for the words and figures “provided under section 16 section 17, section 18 or section 19”, the words and figures “provided or safety to be observed under section 16, section 17, section 18, section 19 or section 19A” shall be substituted;
- (ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) All expenses incurred by the principal employer in providing the amenity or safety measures may be recovered by

Insert-
tion of
section
19A.

Safety
measures.

Amend-
ment of
section
20.

the principal employer from the contractor either by deduction from any amount payable to the contractor or otherwise as provided in the law.”.

Amend-
ment of
section
21.

19. In section 21 of the principal Act,—

(i) for sub-sections (1) and (2), the following sub-section shall be substituted, namely:—

“(1) Subject to the condition that the final responsibility for payment of wages to contract labour shall be that of the principal employer, a contractor shall be responsible for payment of wages which shall be equivalent to the wages fixed under the Minimum Wages Act, 1948 or as prevalent in the industry or establishment of the principal employer or as agreed to by the workmen under a settlement registered under the Industrial Disputes Act, 1947, whichever is higher, to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as prescribed under Payment of Wages Act, 1936.”;

11 of 1948.

(ii) sub-sections (3) and (4) shall be renumbered as sub-sections (2) and (3) respectively thereof.

14 of 1947.

4 of 1936.

Insertion
of sec-
tions 21A,
21B, 21C,
21D and
21E.

20. After section 21 of the principal Act, the following new sections shall be inserted, namely:—

Extra
wages
for over-
time.

“21A. In every establishment, coming within the scope of this Act, where a workman works more than eight hours in any day or for more than forty-eight hours in any week, he shall, in respect of over-time work, be entitled to wages at the rate of twice his ordinary rate of daily wage.

Bonus.

21B. Workmen engaged in every establishment coming within the scope of this Act, shall be entitled to receive a minimum bonus @ 8.33% per annum.

Working
hours.

21C. (1) An adult workman shall not be required to work for more than forty-eight hours a week and for more than eight hours in any working day.

(2) An adult workman shall be entitled to have at least half an hour of rest in any working day after not more than four hours of work at a stretch.

Weekly
holidays.

21D. (1) An adult workman shall have a paid rest day on the first day of the week, provided that it can be changed within three days before or after the first day of the week in case of emergency but with the consent of workman.

(2) An adult workman who has worked for a period of one hundred and twenty days or more in an establishment during a calendar year shall be allowed during the subsequent calendar

year, leave with wages for a number of days calculated at the rate of one day for sixteen days of actual work performed by him during the previous calendar year.

(3) An adult workman will be allowed half pay leave at the rate of twenty days for each calendar year which may be granted for sickness on medical certificate from Doctors.

(4) a female workman shall be eligible for maternity leave of twelve weeks with pay to cover a period of confinement, miscarriage or abortion.

(5) Subject to emergencies of work/service an absence with pay not exceeding twelve days in the aggregate in a calendar year shall be permissible to every workman in order to meet special circumstances which cannot be foreseen.

21E. (1) Every workman engaged in every establishment, coming within the scope of this Act, shall be entitled to get all the benefits offered by the Employees' State Insurance Act, 1948, *viz.*—

- (a) sickness benefit,
- (b) maternity benefit,
- (c) disablement benefit,
- (d) dependents benefit,
- (e) medical benefit,
- (f) funeral benefit,

or similar such benefits which are being enjoyed by the workmen in the establishment of the principal employer whichever is greater.

19 of 1925.

(2) Every workman engaged in any establishment, coming with scope of this Act shall get the benefits of the Provident Funds Act, 1925.

(3) Every workman of any establishment, coming within the scope of this Act, shall be made permanent worker of that establishment after one hundred and twenty days of service at a stretch of one hundred and eighty days with break.”.

21. In section 22 of the principal Act,—

(i) in sub-section (1),—

(a) for the words “three months”, the words “one year” shall be substituted;

(b) for the words “five hundred”, the words “five thousand” shall be substituted;

(ii) in sub-section (2),—

(a) for the words “three months”, the words “one year” shall be substituted;

(b) for the words “five hundred”, the words “five thousand” shall be substituted.

Social security.

Amend-
ment of
section
22.

Amend-
ment of
section
23.

22. In section 23 of the principal Act,—

- (i) for the words “three months”, the words “five years” shall be substituted;
- (ii) for the words “one thousand”, the words “ten thousand” shall be substituted;
- (iii) for the words “one hundred”, the words “five hundred” shall be substituted.

Amend-
ment of
section
24.

23. In section 24 of the principal Act,—

- (i) for the words “three months”, the words “one year” shall be substituted;
- (ii) for the words “one thousand”, the words “five thousand” shall be substituted.

Amend-
ment of
section
25.

24. In section 25 of the principal Act, proviso to sub-section (1) shall be omitted.

Amend-
ment of
section
26.

25. In section 26 of the principal Act, the following proviso shall be added at the end, namely:—

“Provided that any workman or a registered trade union of workmen in any establishment who could prove that the inspector has not taken any action on the complaint of offences made to him within a reasonable period of a fortnight, may approach the court directly and the court shall, take cognisance of the offences on complaint from the workman or the trade union of such workmen.”.

Amend-
ment of
section
27.

26. In section 27 of the principal Act,—

- (i) after the words “knowledge of an inspector”, the words “or from a date after expiry of six weeks from the date on which a workman or the trade union of workmen has lodged first complaint with the inspector:” shall be inserted;
- (ii) in the proviso, for the words “six months”, the words “one year” shall be substituted.

Amend-
ment of
section
28.

27. In section 28 of the principal Act,—

- (i) in sub-section (1), after the word “appoint”, the words “within three months after the Act comes into force” shall be inserted;
- (ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) An inspector appointed under this Act shall maintain a register of complaints of violation of the provisions of this Act or offences committed by a contractor or an establishment brought to his notice by any workman or a registered trade union on behalf of workmen of the said contractor and for the establishment and record actions taken thereon including prosecutions launched by him.”.

28. In section 29 of the principal Act, in sub-section (1), after the words "other particulars", the words "as mentioned in chapter V of this Act" shall be inserted.

Amend-
ment of
section
29.

29. In section 31 of the principal Act, after the words "Government may", the words "with express approval of the Parliament or, as the case may be, the State Legislative Assembly" shall be inserted.

Amend-
ment of
section
31.

30. In section 32 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section
32.

"(3) Any workman or a registered trade union, may, however, prefer a suit or institute prosecution or other legal proceedings against any registering officer, licensing officer, inspector or any other Government servant or any member of the Central Board or the State Board, as the case may be, for any action, which may be *mala fide* or dereliction of duty causing harm to the workmen or their interest and such proceedings shall be treated as cognizable offence as referred to in section 26 of this Act".

STATEMENT OF OBJECTS AND REASONS

The Central Standing Committee on Rural Unorganised Labour in its meeting held on 9th July 1980 considered a report submitted by a Sub-Committee headed by Shri B. Bhagwati on bonded labour observed that despite progressive abolition of system of contract labour, there is a possibility of an element of bondage existing amongst contract labour in remote jungle areas. The Committee also accepted that co-ordination between the working of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Bonded Labour System (Abolition) Act, 1976 would have to be effective.

The lacunae existing in the present Contract Labour (Regulation and Abolition) Act, 1970 have not only defeated the purpose for which the law was enacted, but also have become a hurdle in the way of implementation of the aforesaid two Acts. The present Bill is intended to overcome these lacunae and afford protection to the contract labour who come from rural unorganised labour, i.e. the poorest and the weakest strata of our society and are often exploited not only by the unscrupulous contractors but also by the so-called enlightened management, including the transnational corporations who are increasingly diverting work of perennial and permanent nature to the contractors.

The lacunae in the Act have also stood in the way of functioning of the Advisory Boards constituted under the Act, as it is seen that many decisions for issue of notifications prohibiting employment of contract labour taken as far back as in December 1977 are still under consideration of the Government. The Bill seeks to remove these lacunae also.

The Act had not provided any machinery for enforcement and workmen had no opportunity to seek redressal of the violations of the Acts and denial of benefits due to them except through raising industrial disputes. The Bill provides for such opportunities to the workmen so that the question of wages etc. could be standardised and violations proceeded against. This in-built protection under the Act would become a deterrent to inhuman exploitation of the weakest section of labour force in the country.

SAMAR MUKHERJEE

NEW DELHI;

July 13, 1982.

BILL No. 114 of 1982

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1982.

(2) It shall come into force at once.

Short title and commencement.

43 of 1951. 2. After section 10A of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of new section 10B.

“10B. A person shall be disqualified if, after having been declared elected, he voluntarily gives up his membership of the political party which set him up as a candidate at the election.”.

Disqualification for changing party.

3. After section 33 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 33A.

“33A. A candidate shall, at the time of nomination for election, make a declaration that in case he, after having been declared elected, voluntarily gives up his membership of the political party which set him up as a candidate at the election, he shall be disqualified.”.

Declaration at the time of nomination.

STATEMENT OF OBJECTS AND REASONS

The process of formation of Ministries in States and at the Centre is being vitiated by politics of defections and piracy polluting the entire political atmosphere in the country.

The situation can be improved only by ensuring that candidates who contest the election on a party symbol allotted to their respective Parties and change their political affiliation after elections are disqualified from being the members of Legislatures concerned through a suitable amendment in the Representation of the People Act, 1951.

Hence this Bill.

HARISH RAWAT

NEW DELHI;

July 20, 1982.

BILL No. 115 OF 1982

A Bill to provide for welfare of the family.

WHEREAS it is expedient to provide for welfare of the family by limiting its size;

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Family Welfare Act, 1982.

Short title,
extent and
commencement.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. It shall apply to persons, who are being residents of India, above the age of twenty years and below the age of fifty years, irrespective of their religion, race caste, place of birth or any of them.

Application.

3. (a) 'appropriate Government' means in relation to a State, the Government of that State, and in relation to the Union territories the Central Government;

Definitions.

(b) 'authorised medical officer' means a medical officer appointed by the appropriate Government under section 12 to act as an authorised medical officer, for the purposes of this Act;

(c) 'family welfare officer' means an officer appointed by the appropriate Government under section 12 to act as a family welfare officer for the purposes of this Act;

(d) 'operation' means surgical operation for vasectomy in case of a man and tubectomy in case of a woman, for the purposes of this Act and 'operated' and other cognate expressions shall be construed accordingly;

(e) 'person' means a person of either sex who shall be deemed to be a resident of India, if he resides in India for a continuous period of six months or more at any time;

(f) 'prescribed' means prescribed by rules made under this Act;

(g) 'principal revenue officer' means a revenue officer, such as Patwari or the like who may be, under the respective laws of the appropriate Government in charge of the revenue administration of a village/town or city or a part thereof, or designated as such by the appropriate Government under section 12 for the purpose of this Act.

Family size. 4. No person shall have in all more than three children from one or more spouses.

Eligibility of persons for operation. 5. A person who gets three children in all, from one or more spouses, or person or persons, if any, other than a spouse, shall be eligible for operation under the provisions of this Act, unless the person has voluntarily terminated his capacity to procreate any more child.

Duty to give information. 6. (1) A person who has voluntarily terminated his capacity to procreate any more child shall, within one month of the birth of the third child, give information of his having so terminated his capacity to procreate, to the authorised medical officer in the prescribed form together with a prescribed certificate.

(2) A person who is eligible for operation, under section 5, shall, within one month from the date of birth of the third child, inform by a notice in the prescribed form, the authorised medical officer having jurisdiction over the area where the person is residing, about his eligibility for operation.

(3) The person in charge of the hospital where the child is born, or in case the child is not born in a hospital, the principal revenue officer within whose jurisdiction the child is born, shall ascertain in the prescribed manner whether the child is the third child of the person; and if it is found that it is the third child, he shall give information of the said fact to the authorised medical officer having jurisdiction over the area where the child is born.

Operation of eligible person. 7. On receipt of the information by the authorised medical officer about the eligibility of a person for operation, the said medical officer shall, as soon as may be, but not later than one month from the date of the receipt of the information, arrange to operate the person fully ensuring that the person shall have no more child.

8. (1) A person who fails to inform his or her eligibility for operation, as required under sub-section (2) of section 6, shall be punished with imprisonment of either description which shall not be less than one year and may extend to three years and shall also be liable to fine which may extend to rupees one thousand:

Punish-
ment for
failure to
give
informa-
tion.

Provided that the court may, for reasons to be recorded in its judgement inflict a punishment which may be less than one year, but shall not be less than six months:

Provided further that on completion of his term of imprisonment he shall be immediately operated, before release.

(2) A person who fails to give information as required under sub-section (3) of section 6, shall be punished with fine which may extend to rupees one thousand in each case, but in no case it shall be less than rupees five hundred.

(3) The trials for offences punishable under sub-sections (1) and (2) shall be joint, whenever possible.

9. (1) A person who gives false information under sub-section (1) of section 6 and a person who abets the giving of such information by issuing false certificate or other document shall each be punished with imprisonment which may extend to one year, but shall in no case be less than six months and shall also be liable to fine which may extend to rupees one thousand but shall, in no case, be less than rupees five hundred.

Punish-
ment for
giving
false
informa-
tion.

10. The chief executive officer of every village Panchayat, or Municipality or cantonment, as the case may be, shall, and any other person may, make a complaint in writing to the family welfare officer within whose jurisdiction the person alleged to be eligible for operation, but not operated upon, resides for the time being; and the said family officer shall after ascertaining the facts of each case either by himself or through the local police and/or revenue authorities, lodge the complaint in writing with the Magistrate having jurisdiction over the area who shall try the case summarily and as expeditiously as possible.

Complaint
and trial.

11. (1) A person aggrieved by any order of punishment may appeal to the court to which ordinarily an appeal lies in a criminal case from the order of the said Magistrate.

Appeal.

(2) There shall be no further appeal, revision or any other proceeding to challenge the validity of the order passed by the court of appeal.

12. For the purposes of giving effect to the provisions of this Act, the appropriate Government shall appoint a competent medical officer to be known as the "authorised medical officer", and an officer of the appropriate Government as the family welfare officer for each territorial unit, as it may deem fit, and shall also designate its appropriate officer as the principal revenue officer for a village, town or a city.

Appoint-
ment of
officers.

Penalty
for
neglect
of duty.

13. Notwithstanding anything contained in any law, rules, regulations or conditions of service, any officer appointed under section 12, who fails or neglects or acts rashly or dishonestly in the discharge of his duties under this Act, shall in addition to his liability under any law for the time being in force, be also liable to a disciplinary action and if he is found to have acted dishonestly, he shall be dismissed from service.

Explanation.—The expression 'dishonestly' shall have the meaning assigned to it in the Indian Penal Code, 1860, and an act done dishonestly includes every act done intentionally to defeat the purpose of the Act, whether by creating false record and bogus cases or by forcing innocent and ineligible persons to operation or by creating social atmosphere apathetic or derogatory to the policy of the Act, by any act or omission or otherwise, whatsoever.

45 of
1860.

Power to
make
rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The problem of population explosion has posed a serious threat to the whole world. In case of India, it is simply a menace. The population in India has risen from 361 million in 1951 to 439 million in 1961, 548 million in 1971 and 634 million in 1981. At this rate the perspective of population indicates that in 1991 the population may rise to 800 million and by the end of this century we may reach the staggering figure of 1065 million.

The traditional view that a child is a gift of God and that he who has given the beak has also given the grass has become meaningless. A child that is born brings a mouth to feed and a body to be clothed, sheltered, cared for, looked after, nurtured and nourished, trained, educated and maintained till it grows into a person capable of using his two hands to work. This casts a heavy strain on the family and through the family on the society and the nation. In a socialist society like ours, the incidence of burden of maintenance of a child has started to shift from family to society. Since the society is burdened with this burden as a liability, obligation and duty, that very society must have a say in the matter of entry of a person in society, who is to cast such a burden. This is sought to be expressed in this Bill.

Besides, it is not only a question of the society's burden. It is also a question of health of the society as seen through the health of its constituents which is looked after by the society through the institution of family. The physical as well as mental health of the child can be taken care of better if the number of persons to be cared for is less. It is, therefore, the obligation of the society to see that the size of the family is properly designed.

In the present economic structure of the society the common man who is already poor has very meagre sources of income. Every addition in the family places greater strain on those sources and the family is pushed in the direction below the poverty line. If the inflow of new comers is not checked, it is difficult to salvage the individual.

The individual liberty to manage his own family should be maintained and protected. It is, therefore, seen that his liberty is guaranteed till he gets three children. But when the liberty crosses the reasonable limit and enters the realm of laxity, irresponsibility and indiscipline, it is the duty of the society to take action.

However, guided by false notions of fundamental rights and liberties, the programme adopted for achievement of the aforesaid objective is not properly implemented. It is, therefore, necessary to infuse discipline among those who are charged with the duty to implement the programme.

There is, therefore, a national consensus on the problem of proper control of the population through the appropriate management of family welfare.

This Bill seeks to achieve the aforesaid objectives.

NEW DELHI:

July 20, 1982.

A. T. PATIL

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides for the appointment of authorised medical officer, family welfare officer and also principal revenue officer by the appropriate Government. These officers shall also be appointed for Union territories. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about Rs. 6,66,000 per annum and non-recurring expenditure of Rs. 3,70,000.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 116 OF 1982

A Bill to protect the dignity of womanhood with special reference to concubinage and unilateral divorce.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of the Dignity of Womanhood Act, 1982.
Short title
extant
and commen-
tment.
(2) It shall extend to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. This Act shall apply to all persons who are residing in India.
Applica-
tion.
3. In this Act,—
 - (a) 'concubine' means and includes a woman who either permanently or for a limited period—
 - (i) marries, under any law whatsoever, a man who has already at least one legally married wife living, without being divorced; or

(ii) cohabits with a man, without a lawful wedlock; or

(iii) keeps relations with a man as husband-and-wife, without a lawful wedlock, under any agreement, custom, usage or otherwise, whatsoever.

(b) 'field of development of personality' includes education, art, science, employment, business and every field in which the inborn or acquired qualities of a human being can be utilised or advanced.

Concubine to be a lawful wife.

4. Notwithstanding anything contained in any law, custom, usage, agreement or otherwise whatsoever, every concubine shall, on the date of the coming into force of this Act, be deemed to be a lawful wife of the man of whom she is a concubine and shall have full rights and shall be subject to all duties and obligations, as a lawfully married wife, with retrospective effect from the date on which she became a concubine:

Provided that so long as a legally married wife of the man is living she shall, to the exclusion of the concubine, have exclusive social and religious rights and duties as a lawful wife of the man.

Status and rights of children of a concubine.

5. Notwithstanding anything contained in any law, custom, usage or agreement, every child of a concubine born of the man of whom she is a concubine before the coming into force of this Act shall be deemed to be the lawful child of the man and shall have the same social, religious and economic rights including rights of maintenance and succession and shall be subject to the same duties and obligations as those of a lawful child of that man.

Prohibition of Concubinage.

6. Notwithstanding anything contained in any law, custom, usage or agreement, concubinage of any kind whatsoever is hereby prohibited.

Concubinage by a bachelor, widower or a divorcee.

7. (1) If a man who is a bachelor, widower or a person divorced from his wife, keeps a concubine, after coming into force of this Act, he shall be deemed to be her lawful husband and the provisions of sections 4 and 5 shall apply *mutatis mutandis* to her and her children born of that man.

(2) If the concubine has already a lawful husband living without being divorced—

(i) she shall be deemed to be divorced from him from the date on which she is kept as a concubine without any claim for alimony or anything else whatsoever;

(ii) all the property belonging to the former husband in possession of such a woman, either as a gift, share or otherwise, shall be restored to him forthwith;

(iii) the custody of her children from her former husband shall, if so demanded, be given to him;

(iv) the children of the former husband shall have a claim to maintenance from the income and assets of the woman as well as of the man of whom she has become the concubine;

(v) she shall, on conviction, be punished with imprisonment which may extend to one year and shall also be liable to fine which may extend to one thousand rupees;

(vi) and has two children already she shall on conviction, be operated for tubectomy, before release.

(vii) her paramour shall, on conviction, be punished with imprisonment which may extend to one year and shall also be liable to fine which may extend to one thousand rupees; and

(viii) and if her paramour has two children already, he shall on conviction be operated for vasectomy, before release.

8. (1) If a man who has a lawful wife living without being divorced, keeps a concubine, after the coming into force of this Act, he shall, on conviction be punished with imprisonment which may extend to three years, but which shall not, in any case, be less than one year, and with fine which may extend to five thousand rupees, but which shall not, in any case, be less than one thousand rupees and—

(a) on completion of his term of imprisonment he shall be immediately operated for vasectomy and thereafter released, and

(b) if, thereafter, he continues to keep or keeps a concubine, he shall be—

(i) removed from service, if any; and

(ii) debarred from getting any aid or assistance in any form, under any scheme, project, plan or programme undertaken or sponsored by the Government, local authority or public undertaking, company, corporation or any other such organisation by whatsoever name called.

(2) The wife of such a man shall have the right to reside separately from her husband, with or without a decree of judicial separation, with an option to get a divorce and where she opts for a divorce and gets it,—

(i) she shall be entitled to alimony as well as a share in the property of the husband or in a notional partition, on the date of filing of the petition for divorce, she and each of her children from that husband and the husband shall have equal shares and her share in the property shall remain with her and the alimony shall be paid to her till she remains chaste and does not re-marry;

(ii) the custody of the minor children shall be with the mother;

(3) If the wife of such a man resides separately, without divorce, she shall be entitled to maintenance from her husband for herself and her children who remain with her.

(4) Where the concubine is a maiden or a widow or a divorcee, she shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees.

(5) Where the concubine is a woman having her husband living without being divorced, the provisions of sub-section (2) of section 7 shall apply *mutatis mutandis* to her.

Concu-
binage
by a
married
man.

(6) Where the wife gets a divorce, under sub-section (2) of this section, the concubine shall become a lawful wife of the man and the provisions of sections 4 and 5 shall apply *mutatis mutandis* to her and her children born of that man.

Unila-
teral
divorce
prohi-
bited.

9. Notwithstanding anything contained in any law, custom, usage, or agreement no man shall divorce his wife unilaterally, and any such divorce or attempt to divorce shall be of no effect.

Restric-
tions on
women
prohi-
bited.

10. (1) Any restriction, whether social, religious or otherwise, which subjugates a woman to the domination of a man or tends to discriminate her, to her disadvantage, in the field of development of her personality, shall be illegal and of no effect.

(2) Every person or authority which imposes or attempts to impose any such restriction shall, on conviction, be punished with imprisonment which may extend to six months but which shall in no case be less than one month and shall also be liable to fine which shall extend to five thousand rupees but which shall in no case be less than one thousand rupees.

Com-
plaints.

11. Any person may make a complaint to the Magistrate, having jurisdiction to take cognisance of the offences under this Act, within whose jurisdiction the accused or any one of them resides.

Appeal.

12. (1) A person aggrieved by any order of conviction and sentence under this Act, may prefer an appeal to the Court to which an appeal from such order of the said Magistrate ordinarily lies.

(2) There shall be no second appeal, revision or other proceedings, against the order of the court of appeal.

STATEMENT OF OBJECTS AND REASONS

Dignity of womanhood is at the base of Indian culture. (*Yatra Varyastu Poojyante Ramante Tatra Devatah*). Therefore in spite of the practice of polygamy, monogamy has been held in the highest regard in Indian society. Freedom of women in the matters of development of their personality was respected and protected. However, these basic values have eroded during the ages and different norms of living were developed in which the dignity of womanhood was attacked from all sides.

During the course of the change in the norms of living sometime it was treated as a fashion to keep one or more concubines. It was developed into a matter of dignity of a man. His greatness was sought to be counted in terms of the number of concubines he kept. Girls and women born in socially backward surroundings ridden with ignorance and poverty, in particular, were utilised for concubinage. The result was that the man, could satisfy his lust to any extent to which his economic power permitted, without incurring any liability. He could procreate children which became the burden of the mother—the concubine—who was unable to sustain it, and consequently they brought more and more misery to the woman, through whom the burden of misery was shifted to the society.

These concubines had no place of honour in the society. They were looked upon with despise and contempt. Indignities done to them either by the paramours or by others were of no consequence. They were destined to die in the same state of indignity or perhaps worse in which they entered concubinage. They were worse than domestic pets. When the society underwent a change in which polygamy was sought to be prohibited by law, no action was taken to prohibit concubinage. The lot of the concubines remained unchanged.

The man's lust, however, prompted him to invent new methods for its satisfaction.

Recently, a new method is found to have been adopted by the parties. It is the method of entering into a "contract of friendship" or a "contract for companionship" or the like, mostly for a limited period.

The concubinage is, thus, one of the severest indignities to womanhood. It needs to be checked, controlled and stopped.

The children of the concubine are in a more unfortunate position, for no fault of theirs. They have no status in the family and no status in the society. They get no right in the estate of their natural father, while those born in lawful wedlock appropriate everything to themselves. There is absolutely no reason why the "children" should be so

ill-treated and ousted from the participation in and aspirations for a decent life. It is necessary, therefore, to put them at par with the children born out of lawful wedlock.

Sometimes, the women are denied certain freedoms including those concerning admission to institutions of learning. It is also necessary to stop such prohibitions against women.

This Bill seeks to achieve these objectives.

NEW DELHI;

A. T. PATIL

July, 27, 1982.

BILL No. 117 OF 1982

A Bill to give voting right to citizens of India who are not ordinarily resident of India.

WHEREAS the Constitution of India confers upon every citizen the right to participate in the governance of the country; and

WHEREAS elections to Parliament and the legislatures of the States are held on the basis of adult suffrage; and

WHEREAS large number of citizens of India for various reasons are not ordinarily resident in India, and yet entertain a keen desire to participate in the elections held from time to time in India; and

WHEREAS it is expedient to create a machinery to enable such citizens to vote at the said elections;

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called The Indians Abroad (Voting Right at Elections) Act, 1982.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title.
extent and commencement.

Right to
Vote
to citizens
who are
not
ordinarily
resident
of India.

Power to
make
rules.

2. Notwithstanding anything contained in Part II B and Part III of the Representation of the People Act, 1950, the Election Commission of India shall make provision for and create an adequate machinery to enable citizens of India not ordinarily resident within India to vote at every election to Parliament and the legislature of a State from a constituency of their choice.

3. (1) The Central Government shall make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide:—

(a) adequate publicity before the elections are held;

(b) the manner in which a citizen of India residing outside India may select his constituency for the purpose of voting at an election to Parliament or an election to the legislature of a State;

(c) preparation of electoral rolls in every country and part of a country where a substantial number of citizens of India reside;

(d) the date, place and manner of casting of votes;

(e) the supply of ballot papers and the transmission of used ballot papers and the counting of the votes cast.

(3) The rules when framed shall come into force at once but any rule may be disapproved by Parliament within forty days after their coming into force and on such disapproval the rule so disapproved shall cease to be in force.

4. All diplomatic and consular officers of the Government of India shall act in aid of the Election Commission of India in the discharge of its function under section 2.

Diplomatic
and
consular
officers to
help
Election
Commission
of India.

STATEMENT OF OBJECTS AND REASONS

A large number of patriotic Indian citizens who take keen interest in Indian affairs feel disenfranchised because there is no machinery in existence to enable them to vote at elections held in India from time to time. This Bill is intended to remove that grievance and to strengthen the emotional bond between India and its citizens who do not ordinarily live on the soil of India.

Hence this Bill.

NEW DELHI;
July 30, 1982.

RAM JETHMALANI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the creation of a machinery for effectuating the voting rights of Indian citizens residing outside India. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees two lakhs per annum and non-recurring expenditure of about rupees fifty thousand.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides that the Central Government shall make rules for carrying out the purposes of the Act. These rules will relate to matters of detail only. The Delegation of legislative power is of a normal character.

BILL No. 107 OF 1982

A Bill to provide for the establishment of a High Court at Agartala, Tripura.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Establishment of a High Court at Agartala Act, 1982.

Establish-
ment of
a High
Court
at Agar-
tala.

2. There shall be established a High Court at Agartala, Tripura, and such number of Judges, as the President may, from time to time appoint, shall sit in order to exercise the jurisdiction and power for and in respect of cases arising in the State of Tripura.

Transfer
of cases
from
High
Court
at Gau-
hati.

3. The cases pending in the High Court at Gauhati originating from the State of Tripura shall stand transferred to the High Court at Agartala from the date of the establishment of the High Court at Agartala, Tripura.

STATEMENT OF OBJECTS AND REASONS

Tripura lies at the extreme far east of the country and is not linked properly by railway with the rest of the land. The High Court at Gauhati is not easily approachable due to lack of transport facilities. The State is also economically very poor and the people of the State are finding it extremely difficult to go to Gauhati and pursue for justice from the High Court there. They have to travel several hundred miles by bus, unnecessarily spend a huge amount to reach Gauhati in order to file writs and similar petitions for seeking justice. In the interest of the litigant public of this poor State and in order to administer cheap and quick justice, it is necessary to establish a separate High Court at Agartala in Tripura.

The Bill seeks to achieve the above objective.

NEW DELHI;

AJOY BISWAS

March 8, 1982..

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 68/30/82-Jus, dated 2 August 1982 from Shri Jagannath Kaushal, Minister of Law, Justice and Company Affairs to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Bill to establish a High Court at Agartala, Tripura, recommends.

- (a) introduction of the Bill in Lok Sabha under article 117(1) of the Constitution; and
- (b) consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the establishment of a High Court at Agartala, Tripura. The amount of pensions payable to the Judges of the High Court is expenditure charged on the Consolidated Fund of India. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees two lakhs per annum.

No non-recurring expenditure is likely to be involved from the Consolidated Fund of India.

BILL NO. 108 OF 1982

A Bill to protect building and construction workers and to provide for their minimum wages, security of job, and such other health and welfare measures for them as are provided for in various labour and industrial laws in force in India.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Building and Construction Workers (Conditions of Employment) Act, 1982.

Short title,
extent
and
com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “appropriate Government” means, in relation to any building or construction work, the State or the Central Government, whomsoever has jurisdiction over the site;

(b) "contractor" means a person who undertakes, whether as an independent contractor, agent, employee or otherwise, to produce a given result, for somebody, at the site;

(c) "employer" means the owner of the plot of land or building on which work of construction or repair or the like is going on, who employs one or more other persons to do any work for remuneration or otherwise and includes any person entrusted with the supervision and control of workers in such job, and the principal employer and the person who has the ultimate control over the affairs of any building or construction work or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any such building or construction work, and includes any other person to whom the affairs of the establishment are entrusted, whether such other person is called the managing agent, manager, superintendent or by any other name;

(d) "Fund" means the Building and Construction Workers Welfare Fund constituted under section 19;

(e) "local authority" means the Government officials appointed by the appropriate government to regulate, give permission to construction work, pass plan and designs for the construction work or the similar nature of work;

(f) "prescribed" means prescribed by rules made by the Government under this Act;

(g) "wages", for the purpose of this Act, means wages as defined in clause (rr) of section 2 of the Industrial Disputes Act, 1947;

14 of 1947

(h) "worker" means any worker (including a woman) employed in any building or construction work to do any skilled or unskilled, manual, supervisory, technical or clerical work, for hire or reward, whether the terms of employment be express or implied;

(i) words and expressions used herein but not defined in this Act and defined in the Workmen's Compensation Act, 1923; the Industrial Disputes Act, 1947; the Minimum Wage Act, 1948; the Employees' State Insurance Act, 1948; the Contract Labour (Regulation and Abolition) Act, 1970; the Employers' Liability Act, 1938; the Equal Remuneration Act, 1976; the Fatal Accident Act, 1855, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; the Maternity Benefit Act, 1961, the Payment of Bonus Act, 1965; the Payment of Gratuity Act, 1972; the Payment of Wages Act, 1936; The Personal Injuries (Compensation Insurance) Act, 1963; the Trade Unions Act, 1926, the Weekly Holidays Act, 1942; or similar other Labour Laws shall have the meaning respectively assigned to them in these Acts for the purpose of this Act also.

8 of 1923
14 of 1947
11 of 1948
34 of 1948
37 of 1970
24 of 1938
25 of 1976
13 of 1855
30 of 1979
53 of 1961
21 of 1965
39 of 1972
4 of 1936
37 of 1963
16 of 1926
18 of 1942

4. Before proceeding with any building and construction work, the plan and design of the said building and construction shall require approval, licensing and registration by appropriate authority, without which all building and construction work shall be deemed to be illegal.

Prior approval, etc. of plan of construction.

5. Every employer and contractor shall give notice of building and construction work to the appropriate authority before commencing any work.

Prior Notice.

6. There shall be provided a well-equipped Inspection staff to check any unauthorised building and construction activity and to enforce the provisions of this Act.

Inspection staff.

7. The local authority shall maintain a register of construction and building workers of the area with such particulars and in such manner as may be prescribed by law.

Register of construction workers.

8. The local authority shall also maintain a register of such employers and contractors who employ or are willing to employ construction and building workers in the area with such particulars and in such manner as may be prescribed by law.

Register of employers.

9. Every employer and contractor shall register his name with the local authority of the area before engaging anybody in his work and initiating any construction and building work.

Employer to register his name with the authority.

10. (1) Every employer and contractor who has not registered his name with the local authority shall not engage anybody in his work.

Penalty.

(2) An employer or a contractor who contravenes the provisions of this section shall be punishable with fine which may extend to twenty five thousand rupees.

11. Every building and construction worker shall be paid a minimum wage of Rs. 600 per month or Rs. 20 per day of work subject to adjustment in accordance with the rise in the Consumers' Price Index.

Minimum wages to worker.

12. Every day of work done by a worker shall be counted as being continuously on the job for the purpose of total days worked by the worker in any year.

Every day of work to be counted.

13. Employer and contractors having permanent and continuous work, in the same area or in other place or places, shall give permanent status to such of the workers who have completed 240 days of work either under him or under some other employers.

Permanent status to workers.

Worker
not
to be
rejected
as unfit.

Notification of
require-
ment of
workers.

Un-
employ-
ment
allowance
to
workers.

Insurance
of
workers.

Welfare
measures
under
various
laws in
force.

Constitu-
tion of
Fund.

Levy
of cess.

14. No employer or contractor shall reject a worker on the ground that he is not fit or cannot perform a particular job.

15. Every employer and contractor shall, before employing any worker, notify his requirement of workers to the registering local authority within whose jurisdiction his activity falls.

16. The appropriate Government shall pay, through the local authority, an unemployment allowance to every unemployed worker, whose name appears in the register maintained by the authority for this purpose, at the rate of Rs. 100 per month to an unskilled worker and at the rate of Rs. 150 per month to a skilled worker.

17. Every worker shall be insured, by the local authority, with the Life Insurance Corporation of India for a minimum of Rs. 25,000, the premium for which shall be paid by the authority regularly out of the Fund.

18. The local authority shall take all such welfare and health measures for the welfare of building and construction workers as are provided for in various labour and industrial laws in force in India.

19. (1) The appropriate Government shall constitute a Building and Construction Workers Welfare Fund to which shall be credited the proceeds of cess levied under section 20.

(2) The Fund shall be utilised for—

(i) various welfare and health measures to be undertaken by the local authorities under section 18;

(ii) providing of pension-cum-provident fund facilities to workers;

(iii) payment of premium towards the life-insurance of workers as provided for under section 17.

(3) The appropriate Government shall provide out of the Fund such sums of money for the purposes of this Act to each local authority as may be determined by that Government in the manner prescribed by rules.

20. (1) There shall be levied by the appropriate Government and collected by the local authorities for the purposes of this Act a cess at the rate of two per cent. of the total value of the building or construction work approved by a local authority in its area.

(2) The proceeds of the cess levied and collected under sub-section (1) shall be credited to the Fund constituted under section 19.

21. There shall be constituted an Advisory Council, at the Central as well as at the State levels, to advise the respective Governments on all problems arising from the implementation of the provisions of this Act.

Constitution of Advisory Councils.

22. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the register of construction workers shall be maintained;

(b) the manner in which the register of employers' and contractors shall be maintained;

(c) security of job and other measures as provided for in various labour and industrial laws in force in India;

(d) hours of work, daily interval for rest, spread-over of hours of work, split duty, notice of hours of work, weekly rest, compensatory day of rest, overtime wages for extra work, annual leave with wages and similar other matters;

(e) the manner in which the amount to be provided to each local authority out of the Fund shall be determined;

(f) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The building and construction workers in the country are the worst sufferers so far as wages and working conditions are concerned. The system of Bonded Labour is the most common factor in the construction and building industry. The fact that these workers are not organised and are usually coming from distant and remote parts of the country is also the reason for their full exploitation by the building and construction employers. These workers are not being paid minimum wages; in fact they are not paid any regular wages but are given advances, which are adjusted against their due wages, and the process is never ending, resulting in their bonded existence. There is no fixed job for them and they are being asked to do all sorts of jobs, which mean no skilled status for them. There is no fixed working time for them. The result is that these workers are always underpaid, underfed, under bondage for most of the time of their lives. There is no security of job, no old age provision and mostly they die unsung, unwept and unnoticed. It is, therefore, necessary that some attention is paid to this lot of unfortunate citizens so that they too have some sort of human existence while they live and they have a respectable death when they die. Some protection is necessary during their long service in the shape of such provident fund, health and other welfare measures for them as are provided for in various labour and industrial laws in force in India. The time has come, therefore, that legislation is passed to achieve these objectives soon.

Hence this Bill.

NEW DELHI;

SATYAGOPAL MISRA

February 27, 1982.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. H-11021/10/82-LW, dated 4 August 1982 from Shri Bhagwat Jha Azad, Minister of State of the Ministry of Labour, to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the above Bill, has recommended it under articles 117(1) and 117(3) of the Constitution for introduction and consideration in the Lok Sabha.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for provision of Inspection staff for enforcement of the provisions of the Bill. Clause 7 and 8 provide for maintaining of registers of construction workers and employers by the local authority. Clause 11 provides for payment of minimum wage of Rs. 600/- per month to workers. There are some Government departments who carry out construction work departmentally, e.g., C.P.W.D. and State P.W.Ds., who will also have to pay the minimum wage provided for in the Bill. Clause 16 provides for payment of unemployment allowance to workers by the appropriate Government. Clause 20 provides for levy of a cess for the purposes of the Bill, the collection of which will involve expenditure. Clause 21 provides for constitution of Advisory Councils at the Central as well as the State levels. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India on implementation of these provisions in the Union territories and at the same time towards making grants-in-aid to some extent to the States to meet a part of this expenditure. An annual recurring expenditure of about rupees 20 lakhs is estimated to be incurred from the Consolidated Fund of India on this account.

A non-recurring expenditure of about rupees 5 lakhs is also likely to be incurred for carrying out the purposes of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate to matters of detail only which cannot be provided for in the Bill itself, the delegation of legislative power is of a normal character.

BILL No. 110 OF 1982

A Bill to provide for various measures for population control.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Population Control Act, 1982.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. Every person, who undergoes an operation for the purpose of birth control after having two children, shall be given by the Government the following incentives, namely:—

(a) cash reward as may be prescribed by the Government but which shall not be less than one thousand rupees;

(b) suitable employment, if the person is unemployed.

Motivation for birth control.

Free education etc. to every child.

Establishment of Small Family-cum-Child Welfare Centres.

Publi-
city to
provi-
sions of
Act.

3. Every child, the income of whose parents is less than six hundred rupees per month, shall be provided free education upto the senior secondary stage including supply of books, exercise-books and uniforms free of any charge.

4. (1) There shall be established Small Family-cum-Child Welfare Centres, hereinafter called the Centres, by the Government for every five thousand of population in rural areas and for every twenty-five thousand of population in urban areas.

(2) The Centres shall guide the married persons in the use of preventive methods of birth control and provide them with suitable birth control devices free of any charge.

(3) There shall be made adequate arrangements at every Centre for carrying out birth control operations, post-operation care of the persons who undergo operation and supply of necessary medicines to them free of any charge.

(4) There shall be made adequate arrangements at every Centre for providing complete medical care to every child upto the age of ten years free to any charge.

(5) The Government shall take suitable steps to attract the people in rural areas to attend the Centres and avail of the facilities provided at the Centres.

5. (1) The Government shall give effective and regular publicity to the provisions of this Act and the advantages of a small and planned family.

(2) The publicity shall be made through various official and non-official mass publicity media including newspapers, magazines, radio, television, cinema, mobile film units, exhibitions, etc.

(3) The Government shall take suitable steps to attract the people in rural areas to attend the family planning publicity programmes.

STATEMENT OF OBJECTS AND REASONS

Poverty results in the growth of population and population growth in turn increases poverty. But no real impact can be made on this disease of uncontrollable population growth merely by creating a consciousness about family planning as long as that consciousness is not borne out by the day-to-day experiences of the masses. Hence, this vicious circle can only be broken by better education, more social welfare measures and enlargement of employment opportunities, in addition to monetary motivation for birth control, and these need a higher level of prosperity for the masses. Enactment of a legislation providing for such motivations for birth control is, therefore, necessary to achieve the objective of population control.

Hence this Bill.

ARJUN SETHI

NEW DELHI;

August 16, 1982.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for payment of cash rewards to those who undergo birth control operation after having two children and suitable employment to those of such persons who are unemployed. Clause 3 provides for free education and free supply of books, uniforms, etc. to every child the income of whose parents is less than six hundred rupees per month. Clause 4 provides for establishment of Small Family-cum-Child Welfare Centres by the Government, free arrangements at these Centres for carrying out birth control operations, post-operation care and supply of medicines free of any charge. It also provides for complete medical care to the children upto the age of ten years free of any charge. Clause 5 provides for publicity by the Government to the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India on implementation of these provisions in the Union territories and at the same time towards making grants-in-aid to the States to meet a part of this expenditure. An annual recurring expenditure of about rupees one thousand crores is estimated to be incurred from the Consolidated Fund of India on this account.

A non-recurring expenditure of about rupees five hundred crores is also likely to be incurred for carrying out the purposes of the Bill.

BILL No. 111 OF 1982

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1982.

(2) It shall come into force on such date as the Central Government may, by Notification in the Official Gazette, appoint.

2. In the Seventh Schedule to the Constitution,—

(a) List II—State List, entry 18 shall be omitted;

(b) in List III—Concurrent List, after entry 17B, the following entry shall be inserted, namely:—

“17C. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.”

Short title and commencement. Amendment of Seventh Schedule.

STATEMENT OF OBJECTS AND REASONS

The review of implementation of revised land ceiling laws in different States shows that against 40.01 lakh acres of land declared surplus, 26.87 lakh acres have been taken possession of, out of which an area of 18.77 lakh acres has been distributed. There is thus a gap of about 13 lakh acres between the area declared surplus and the area taken possession of. Similarly, the gap between the area taken possession of and the area, distributed, which technically represents the land available for distribution, is about 8 lakh acres. The extent of the gap varies from State to State, but the fact of its existence is not in doubt.

2. It is not always that the pace of implementation could have been quickened by more alert executive action. There are other factors also responsible for delay in implementation. Of about 13 lakh acres of land representing the difference between the area declared surplus and area taken possession of, nearly 11.14 lakh acres are the subject matter of litigation. The pendency of such court cases is particularly high in the States of Andhra Pradesh, Bihar, Madhya Pradesh Maharashtra and West Bengal etc.

3. Correct and up-to-date land records are not only necessary to protect legitimate interests in the land, they facilitate the flow of credit to rural areas. One of the reasons for inadequacy of credit supply to agriculture in general and to small and marginal farmers and tenants in particular has been that land records are either not maintained at all or are not maintained up-to-date.

Hence, the first objective must be to liquidate the pendency of cases since that could be the most efficient method of accelerating the distribution of surplus land, and facilitating the easy flow of credit to the needy farmers in the rural areas to help them raise the standard of living.

With a view to accelerating the implementation of revised land ceiling laws in various parts of the country, by removing various bottlenecks, it is necessary that the Union Government is empowered to enact legislation for this purpose.

NEW DELHI;
August 16, 1982.

ARJUN SETHI.

BILL No. 112 OF 1982

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1982.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Seventh Schedule to the Constitution,—

Amendment of Seventh Schedule.

(a) in List II—State List, entry 17 shall be omitted;

(b) in List III—Concurrent List, after entry 17B, the following entry shall be inserted, namely:—

“17C. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.”.

STATEMENT OF OBJECTS AND REASONS

The anticipated irrigation potential by the end of the 1981-82 was 61.33 million hectares and the corresponding utilisation was 57.22 million hectares only. According to the revised 20-point programme, the area under irrigation is to be increased by 3 million hectares per year during the remaining three years of the Sixth Plan. The programme for utilization of irrigation facilities will, therefore, have to be accelerated.

But in spite of the importance of utilisation of the assets already created to the maximum extent possible which has been stressed in the previous plans, much headway has not been made in this programme as the figures reveal above.

The short-fall in the extent of utilization was mainly due to a number of bottlenecks, *viz.*, lack of adequate field organisation for carrying out the works, lack of enabling legislation to take up farm development works on a compulsory basis, inadequate attention towards all correlated items like modernisation of irrigation system, drainage, crop planning, supply of quality seeds and other inputs, short term credit, introduction of Warabandi, etc.

In view of the year 1982 being declared as the productivity year, concerted efforts should be made to improve the utilisation of irrigation potential created on irrigation projects, with a view to not only increase the total production but also increase productivity per unit of land and water.

Keeping in view the gap between the irrigation potential and its utilisation, it is necessary that the Union Government is empowered to enact laws so as to ensure full utilisation of irrigation potential by removing the bottlenecks in its utilisation.

Hence this Bill.

NEW DELHI;
August 16, 1982.

ARJUN SETHI

AVTAR SINGH RIKHY,
Secretary